

Exhibit C

Transcript of Hearing on Plaintiffs' Emergency Motion for Temporary Restraining Order

April 15, 2025

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 CHINMAY DEORE, et al,

5 Plaintiffs,

6 -v-

Case No. 25-cv-11038

7 UNITED STATES DEPARTMENT
8 OF HOMELAND SECURITY, et al,

9 Defendants.

10 /

11 HEARING ON PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY
12 RESTRANDING ORDER AND PRELIMINARY INJUNCTION

13 BEFORE THE HONORABLE STEPHEN J. MURPHY

14 Detroit, Michigan, Tuesday, April 15th, 2025.

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16 APPEARANCES:

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15		<u>EXHIBITS</u>
16	NONE	
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1 Detroit, Michigan.

2 Tuesday, April 15th, 2025.

3 At or about 10:13 a.m.

4 -- --- --

5 THE CLERK OF THE COURT: All rise. The United States
6 District Court for the Eastern District of Michigan is now in
7 session, the Honorable Steven J. Murphy, III presiding. Please
8 be seated.

9 The Court now calls case number 25-cv-1138, Chinmay
10 Deore, et al v. Secretary of US Department of Homeland
11 Security, et al. This is the date and time set for oral
12 argument on the emergency motion for temporary restraining
13 order. Counsel, please state you're appearances for the record
14 beginning with the plaintiff.

15 MR. WADOOD: Good morning, your Honor. This is Ramis
16 Wadood on behalf of all plaintiffs.

17 MR. KOROBKIN: Good morning, your Honor. Daniel
18 Korobkin on behalf of the plaintiffs.

19 MR. CARLSON: Good morning, your Honor. Kevin
20 Carlson for plaintiffs.

21 THE COURT: Welcome.

22 MR. TOOMEY: Zak Toomey on behalf of the defendants,
23 your Honor.

24 THE COURT: Okay, welcome. Good morning. Thank you
25 all for being on time. Sorry for being a little bit late.

1 It's 10:15 which is fine because we put aside about 45 minutes
2 for this and Mr. Abrutyn, is that the correct pronunciation?

3 MR. WADOOD: My name is Ramis Wadood, last name
4 Wadood. Mr. Abrutyn couldn't make it today.

5 THE COURT: Hold on a minute, let me just make sure I
6 have this. I saw your name. Okay, Mr. Wadood, I apologize for
7 that. Okay, so we're hear from him in a second for about 15
8 minutes, then we're hear from Mr. Toomey for about 15 minutes
9 and then we'll let Mr. Wadood close things out and we'll see
10 where we go from here, but this is of course a matter involving
11 four international students; two at the University of Michigan,
12 two at Wayne State who received notice through their
13 universities that their F-1 immigration status had been
14 terminated by Homeland Security. The matter of whether or not,
15 umm -- my understanding of the way this works is that all four
16 legally entered the United States on visas, F-1 visas. Once as
17 I understand it an individual enters the United States pursuant
18 to a visa, they have status. The visa at that point is really
19 not material whether it expires or not, the question is whether
20 or not the status changes and as long as a person stays in the
21 United States without a status change and they don't commit
22 crimes or engage in any behavior that would, umm, that would
23 change their status, then they are okay. My understanding here
24 is that the legal status did change without their knowledge and
25 notwithstanding their law-abiding and overall non-problematic

1 nature as students, they had their SEVIS record terminated and
2 therefore are subject to mediate removal, so that's why we're
3 having a hearing on a motion, an emergency TRO.

4 Mr. Toomey responded yesterday prior to 6 p.m. and if
5 I'm reading his brief correctly, I believe he says no one is
6 arguing on either side of the courtroom that the status has
7 changed, but that the visas have been revoked prudentially and
8 the SEVIS status was merely modified to reflect that the visas
9 had been revoked, but again to me once a visa permits you to
10 enter the country and you have status, I'm not sure that the
11 visa matters anymore.

12 I also believe Mr. Toomey's position is that criminal
13 record searches only showed encounters between the plaintiffs
14 and local law enforcement or Customs and Border Patrol
15 presumably when they entered or reentered, so the government I
16 believe, but we'll hear more, is going to say that the
17 likelihood of any removal is very low and would at the minimum
18 support fuller briefing on an PI motion which has been filed by
19 the plaintiffs and not need emergency, immediate relief in the
20 form of a TRO. So that's where I'm at on it just so you know,
21 with that background, you're free to say whatever you want.

22 Mr. Wadood, come on up to the mic and you can get started.

23 MR. WADOOD: Thank you, your Honor. Like I
24 mentioned, my name is Ramis Wadood. I'm here on behalf of four
25 international students who study at Wayne State University and

1 the University of Michigan. They came here through the F-1
2 international student program which for decades has allowed
3 thousands of foreign-born non-citizen students to come to the
4 U.S. and complete their studies at American universities and
5 that's what they've been doing for the last few years. They
6 have been singularly focused on completing their degrees at the
7 University of Michigan and at Wayne State University. They
8 have followed all of the many rules imposed on individuals with
9 F-1 student status and yet over the last week and-a-half they
10 have woken up to notices not from the government, but from
11 their schools notifying them that their F-1 student status has
12 been terminated and that they are required to leave the country
13 immediately. This obviously plunged plaintiffs' lives into
14 chaos. They were forced to cease work. They didn't know if
15 they could attend classes. They couldn't apply for new
16 academic programs in the U.S. and now as they're packing their
17 bags, they have also filed this lawsuit arguing that the
18 sudden, abrupt and arbitrary termination of their F-1 student
19 status violates the due process clause and the Administrative
20 Procedure Act.

21 THE COURT: Okay, brief interruption, make sure I'm
22 correct on this because in my opening statement I'm not sure
23 that I was. There's no question that the F-1 visas have been
24 revoked. It appears that what they learned from their
25 university was that in the course of the revocation of those

1 visas, quote "Homeland Security presumably must have told the
2 universities" the reason for the revocation was quote
3 "otherwise failure to maintain status, individual identified in
4 criminal records checked and/or has their visa revoked, SEVIS
5 record has been terminated." Does that work as or constitute
6 an actual termination or change of their status? I think
7 that's important for me to know.

8 MR. WADOOD: It does not, your Honor. A criminal
9 record check, in the first instance I'll say that none of our
10 plaintiffs have been charged with or convicted of a crime and
11 so all that would show up in --

12 THE COURT: No protests, no arrests, no convictions,
13 singularly focused on studying?

14 MR. WADOOD: So there have been some an arrests that
15 have not like charges at all for any of our plaintiffs, but as
16 far as their actual criminal record go, it's completely clean
17 besides a speeding ticket or a parking ticket here or there, so
18 I'll say that at the first instance. Second of all, an arrest
19 or the revocation of a visa is not a valid basis for the agency
20 to initiate a termination of F-1 student status. There is a
21 very clear federal regulation, 8CFR, 214.1, subsection D that
22 outlines three reasons, three ways the agency can initiate a
23 termination of someone's status. Now that is a
24 nondiscretionary federal regulation that the Third Circuit in
25 the Jie Fang case that we cite throughout our motion has

1 recognized places a limit on the agency as far as when and how
2 they can initiate the termination of someone's status and a
3 criminal records check, whether it's an arrest or nothing at
4 all or the revocation of a visa is not one of those bases for
5 terminating status and so students in this case are left with,
6 you know, a boiler plate reason from the government as to why
7 their status was terminated except when you look at the law,
8 when you look at the regulation that governs this program, they
9 find that that's not a valid reason and that underpins our
10 Administrative Procedural Act claim that this was not in
11 accordance with law, that this was arbitrary and capricious and
12 the fact that they weren't notified as a violation of the due
13 process clause also underpins the fact that this was an agency
14 action taken contrary to a Constitutional right.

15 THE COURT: I've been more focused on the APA
16 arguments. Did you speak to this morning Chamber of Commerce
17 of the United States v. S.E.C. which was 115 F4th, 740? I
18 don't know if you in your argument did you mention that?

19 MR. WADOOD: No, your Honor.

20 THE COURT: All right. That stands for the fact or
21 the proposition that as you know agencies have to articulate
22 satisfactory answers including a rational connection between
23 the facts that the agency found and the choices that were made.
24 I don't know that there is been any reasoning given and there's
25 certainly no evidence for the decision that your clients

1 received from the agency since it was funneled down through the
2 universities. Correct?

3 MR. WADOOD: This is actually a case we cited, but
4 didn't develop for the proposition that the general State Farm
5 standard is still active and applies in the Sixth Circuit and
6 that's exactly right, your Honor. There was no rational basis,
7 no reasoned explanation for the termination of their F-1
8 status. In the first instance, again the students weren't even
9 notified by the government that their status was terminated,
10 the government didn't even notify the school. The school does
11 a periodic check of the database that tracks F-1 student status
12 and only learned during that periodic check that the statuses
13 were terminated after which they notified the students, but
14 you're right, your Honor. The terminations themselves, the
15 entry in the database listed that boiler plate language you
16 quoted which was otherwise failing to maintain status, criminal
17 records check and/or visa was revoked, but there was no
18 evidence, no explanation and again both of those circumstances,
19 the criminal records check and the revocation of a visa, not
20 only do they not describe some of our plaintiffs, but they
21 don't form a lawful basis for the termination of status and I
22 want to point to one of our plaintiffs as an example which is
23 Chinmay Deore. He has never even gotten an F-1 visa. He came
24 to the U.S. a decade-plus ago on an H-4 visa which is the
25 dependent of someone who has been granted an H-1-V visa. As he

1 grew older, he changed to F-1 status while already in the
2 United States and so the government never even issued him an
3 F-1 visa because he didn't need to enter the U.S., he was
4 already here and so there was no visa for the government to
5 revoke in that circumstance and so the and/or visa was revoked
6 clearly doesn't apply to him and even if it did, again it's not
7 a lawful basis for the termination of status.

8 On the flip side, the criminal records check, again
9 your Honor none of our plaintiffs including Chinmay has been
10 charged with or convicted of a crime. There are obviously
11 certain deportability grounds for crimes of violence,
12 aggravated felonies and that's incorporated to some extent in
13 maintaining F-1 status, but again none of our plaintiffs have
14 committed, been charged with, convicted of a crime of violence,
15 let alone any crime.

16 THE COURT: All right.

17 MR. WADOOD: And so we're left wondering your Honor
18 why these plaintiffs' F-1 statuses were terminated. Clearly
19 the reason given through the F-1 student status database called
20 SEVIS doesn't fully explain or even reasonably explain why
21 their status was terminated and so that's why today plaintiffs
22 are seeking a temporary restraining order to settle the dust on
23 this chaos so that this Court can fully and comfortably
24 consider plaintiffs' claims on the regular course of
25 litigation.

1 THE COURT: All right. Okay, so I understand all
2 that and I also frankly would like to know myself why all this
3 happened, but we'll get there I'm sure. What I have to ask you
4 as a practical matter based on Mr. Toomey's response especially
5 starting on page 12 where he talks about likelihood of success
6 on the merits and the harm that would come to them under the
7 APA prong and failure to review. It seems to me like what he's
8 saying is that this isn't final yet. Like you, I think
9 Mr. Toomey believes that he has some facts to gather and figure
10 out what's going on here and that the likelihood that your
11 clients would be deported any time soon or that there would be
12 a number of other horrible outcomes is highly unlikely and
13 we'll hear from him on that, but as a very practical matter it
14 seems to me you have valid claims, you have serious interests,
15 you have, you know, a number alleged harms, but would we not be
16 better off denying the extraordinary relief that you ask for
17 because it may or may not -- may not be supported by law and
18 just get a preliminary injunction schedule in place here, get
19 full briefing, maybe evidence from the United States as needed
20 and then we can handle this in a more reasoned, less rushed and
21 more thoughtful manner?

22 MR. WADOOD: Yes, your Honor. I'll --

23 THE COURT: I'm sure you expected that question.

24 MR. WADOOD: I'll start with the last piece about
25 emergency relief and I agree with you totally a more fulsome

1 record, more briefing would be beneficial for this Court, but
2 that's exactly why we're seeking a temporary restraining order
3 that until briefing is complete, until the record is
4 established, our plaintiffs can feel safe and sound that they
5 can remain in the U.S. Like I said in my opening, your Honor,
6 our plaintiffs are currently packing their bags. Their schools
7 are telling them they have to leave the country immediately,
8 that there is no grace period. This is fairly unprecedeted
9 and so we don't have that many examples from the past, but I
10 will point you to the Jie Fang case from the Third Circuit that
11 we cite again throughout our motion. Exact same circumstance
12 where students learned that their entry and SEVIS and SEVIS
13 database that their status was terminated. Those students were
14 put in removal proceedings and so to this day for the last week
15 and-a-half, our plaintiffs are afraid that they will be
16 arrested, detained, initiate -- that removal proceedings will
17 be initiated against them with no recourse and as to the
18 recourse, I'll go back to your question about this being a
19 final agency action. I think you're right that that's what the
20 government is arguing, that this is not a final agency action,
21 but that argument was rejected by the Third Circuit in the
22 Jie Fang case for very specific reasons that there's no way for
23 plaintiffs to challenge, to seek review from a superior agency
24 of their student status termination.

25 THE COURT: Mr. -- I'm sorry to interrupt, I

1 apologize. Mr. Toomey says that Jie Fang is not applicable
2 here. According to him, that was a Third Circuit case and if
3 it's right on point, I would certainly consider that as
4 persuasive, but Mr. Toomey says that Jie Fang didn't deal with
5 the termination of a SEVIS record, it was the revocation of
6 status and that makes the two cases, this one and Jie Fang
7 inconsistent with each other. I don't know if you had a chance
8 to look at that, but --

9 MR. WADOOD: Right, your Honor. I will quote what
10 the government said in the Jie Fang case which the letter that
11 the students received is quoted in the Jie Fang case and it
12 says this letter is to inform you that your SEVIS record and
13 your form I20, dot, dot, dot, has been set to terminated status
14 due to your fraudulent enroll then in above school. Since your
15 SEVIS record has been terminated, you no longer have valid F-1
16 non-immigrant status and must either file for reinstatement or
17 depart the United States immediately. That is exactly what is
18 happening here your Honor and so the same government action
19 that led to the Jie Fang decision is the same government action
20 that is happening here. Obviously there are some factual
21 differences that dealt with a sting operation, a fraudulent
22 school that DHS created and this situation is different
23 factually, but the government action is the same which is the
24 termination of student status which is then reflected in the
25 database, SEVIS, the database that tracks the status of F-1,

1 M-1 and J-1 international students and so we think the Jie Fang
2 case from the Third Circuit directly applies here.

3 THE COURT: Okay, good. Anything else?

4 MR. WADOOD: I'll just say, your Honor, again that
5 this is temporary relief until the Court can fully consider the
6 plaintiffs' claims. I will emphasize once again our plaintiffs
7 are packing their bags with no direction from the government.
8 I'd ask --

9 THE COURT: I'm sorry, I did want to ask are they
10 de-enrolled now? What happens if they show up on campus and
11 try to go to class? Does the school say you're done here or
12 what's that?

13 MR. WADOOD: The plaintiffs are currently speaking
14 with their program advisors and directors to see if they can
15 still attend classes remotely, if they can still obtain their
16 degrees. Again, this is fairly unprecedented and not even the
17 schools have information as to what the government is doing
18 here and so, for lack of better words, they're also trying to
19 figure it out. For now, students are, umm, at the very least
20 the students who have been authorized to work in connection
21 with the programs, the schools is not allowing them to continue
22 working. Their paychecks have been cut off; their primary
23 source of income has been cut off. The students who are trying
24 to transition into a graduate program or a PhD are now finding
25 it hard to convince the schools that they're able to easily

1 transfer their F-1 status to a new school and so again there's
2 a lot of chaos, a lot of trying to figure out what is going on,
3 a lot of already irreparable harm as far as the termination of
4 authorized work goes which is why, again, this is a temporary
5 restraining order to essentially restore the students' statuses
6 until we can get to a full preliminary injunction briefing and
7 onwards so that they can proverbially unpack their bags,
8 continue to attend classes, fulfill their degree requirements,
9 maintain their F-1 status through maintaining a full course of
10 study while we the lawyers are in court to settle the chaos and
11 the mess.

12 THE COURT: All right, good. Well done. Thank you
13 very much. That's a very helpful and I know Mr. Toomey will be
14 very helpful as well. Welcome, sir.

15 MR. TOOMEY: Good morning, your Honor. I'd like to
16 start with the procedural. We're here on an emergency Rule 65
17 motion for a temporary restraining order. The Court should
18 confine its consideration to the record before the Court which
19 at this point is very slim and should also keep in mind that
20 the purpose of a temporary restraining order is to maintain the
21 status quo.

22 Now let's examine the relief they're seeking on this
23 temporary restraining order. Prior this suit, the Department
24 of Homeland Security at the behest of the Department of State
25 terminated plaintiffs' SEVIS records. That is the status quo.

1 On their temporary restraining order, they are asking the Court
2 to reverse that decision and upset the status quo which would
3 be an affirmative preliminary injunction that the Court should
4 not award without a fuller record.

5 THE COURT: I agree with that, but procedurally and
6 I'm not sure I even need to do this based on something else I
7 want to talk to you about, but procedurally I could just simply
8 enter an order preserving the status quo and saying we need to
9 figure some of these things out and do not remove these
10 individuals. I could do that, couldn't I?

11 MR. TOOMEY: Not in this particular case because
12 there's no likelihood that there's an imminent removal so
13 that's no case or controversy about their removal.

14 THE COURT: That's what I wanted to talk to you
15 about. So I guess two things, one of which I finished with
16 Mr. Wadood recently before he sat down, as long as we're
17 litigating, is the government taking the position on the record
18 before it now that the plaintiffs will return their F-1 status,
19 legal F-1 status as long as they remain in the country here and
20 I think why I ask that is it because if I read your brief
21 correctly, you said that the revocation of the visas were
22 prudential and so if that means there's not going to be an
23 immediate deportation, then I have to I think -- well, separate
24 question. What's your answer to that?

25 MR. TOOMEY: Umm, it's more or less correct. So at

1 the beginning the hearing, your Honor sort of characterized
2 that role of the visa versus status versus SEVIS and so I'll do
3 that now. A visa does allow a student, a nonimmigrant student
4 to enter. It can be related to status. If the Department of
5 State immediately revokes a visa, the student immediately
6 becomes removable, so the visa can affect status, but it
7 doesn't always affect -- reflect status.

8 THE COURT: How does that work? I thought if you
9 come in on a visa and you achieve status, the visa may expire
10 and you retain your status, right?

11 MR. TOOMEY: So under Eight U.S.C., 1201(i), Congress
12 has granted the Department of State discretion to revoke a visa
13 at any time and when that happens, when it is an immediate
14 revocation of that nature, it makes the noncitizen removal I
15 think immediately under Eight U.S.C., 1220(c) -- 1227. So the
16 visa sometimes affect status. In this case though, we're not
17 arguing that it does. We believe that the State Department's
18 revocation was prudential. This is described best in a
19 document provided to the Court by plaintiffs themselves. It's
20 at ECF number 2-3, page ID number 92 and 93 and it explains
21 roughly what happened in this case although it's a 2010
22 document so this is a policy that's been applied for 15 years
23 and over the course of many presidents. It says the Department
24 of State received a continuous stream of information that
25 affects the eligibility of aliens to hold visas. Now as it

1 collects that information if receives information of sufficient
2 severity, the Department of State revokes the visa promptly and
3 relies on the visa application process to resolve identity and
4 other questions at a later time should the visa holder wish to
5 reapply for a visa. That's explaining the prudential
6 revocation process meaning that the revocation when it's
7 prudential revocation, it only takes affect once the student
8 leaves the country and when they reapply for a new visa, they
9 have to confront this adversarial information, the criminal
10 history of plaintiffs in this case.

11 THE COURT: So your position here is what has
12 happened here is a prudential revocation and as such, as long
13 as the students, student plaintiffs don't leave the country or
14 presumably, you know, suffer a conviction or something like
15 that which I think is highly unlikely, then they're not going
16 to get removed?

17 MR. TOOMEY: That's correct. So the Department of
18 Homeland Security and the declaration that we provided, we
19 provided the information that we possess about the plaintiffs
20 in this case. None of them are in removal proceedings and as
21 far as we know none of them have done anything that would
22 affect their nonimmigrant status at this time, but we do know
23 that the F-1 visa for two of them has been revoked, but that
24 alone if it's a prudential revocation which we understand
25 that's what this is does not affect their status. Now the

1 important thing in the case is the distinction between the
2 nonimmigrant student's status and the SEVIS record. They are
3 not --

4 THE COURT: Well, let me -- okay, go ahead. Finish
5 that off and then I have a question. Go right ahead. I'm
6 sorry to interrupt you. Go ahead.

7 MR. TOOMEY: I'm happy to answer your --

8 THE COURT: No, no, no. I want to hear what you have
9 to say because it's important and I have something else on my
10 mind. Go ahead.

11 MR. TOOMEY: SEVIS is a database run by the student
12 and visa exchange program. It's a Department of Homeland
13 Security database. It was created in the wake of September
14 11th where Congress challenged the national security apparatus
15 to keep track after noncitizens to make sure that another
16 terrorist attack like that never, ever occurred. It is a
17 database controlled and maintained by the Department of
18 Homeland Security for national security reasons and to
19 facilitate the F-1 visa status and also visitor exchange status
20 and other circumstances. It's a database. It doesn't control
21 nonimmigrant status. Nonimmigrant status for an F-1 student is
22 controlled by the regulations at 214.2(f). It just is a
23 recordkeeping database for the government and it doesn't
24 necessarily -- well, it doesn't control status at all and
25 that's in the declaration from the Department of Homeland

1 Security and it doesn't necessarily reflect status because
2 SEVIS records can be terminated for reasons that don't affect
3 status as in this case. A criminal history hit does not affect
4 status, but it is a reason for terminating a SEVIS record and
5 the government attached, there's a whole list of reasons if you
6 look at 14- umm, this is just an example, but 14-3 -- or sorry,
7 14-4 there's a whole chart of reasons that a SEVIS record may
8 be terminated, one of which is authorized drop below full
9 course time exceeded. So an authorized drop below course-load
10 would not affect status, but it is a reason for terminating a
11 SEVIS record under certain circumstances. Nonimmigrant status
12 and a SEVIS record are different legal concepts and where
13 Department of Homeland Security is not taking the position that
14 the plaintiffs have lost nonimmigrant status because we don't
15 have the information that make that determination.

16 The only evidence in the record that someone believes
17 that these students have lost status is in the plaintiffs'
18 complaint it. It's the e-mails from the University of Michigan
19 which written to plaintiff Yang says it repeats the SEVIS
20 record termination and then it goes on to say we do not have
21 any additional information, but this termination means you no
22 longer hold valid F-1 status within the United States. The
23 Department of Homeland Security --

24 THE COURT: Well, isn't that, that's not quoted
25 language from the Department?

1 MR. TOOMEY: No, that is language added by the
2 University of Michigan on its own initiative that we don't
3 believe is correct in this case or we don't have any reason to
4 believe it's correct. Perhaps the University of Michigan knows
5 another way in which plaintiff Yang has violated her
6 nonimmigrant student status, but --

7 THE COURT: Well, we don't know, but I understand
8 your point.

9 MR. TOOMEY: We do not. The Department of Homeland
10 Security did not ask the University of Michigan to add this
11 language. The Department of Homeland Security, you know,
12 plaintiffs referred to the chaos created by this e-mail. The
13 University of Michigan is not a defendant here. We don't
14 support that statement by the University of Michigan based on
15 the record before us and so to the extent that --

16 THE COURT: All right. Let me ask you a question.
17 This is what I wanted to get to when I interrupted and I talked
18 to your adversary about this briefly and I'm very interested in
19 light of what you just said what your analysis is. Don't you
20 think that in addition to the removal issue, that losing the
21 opportunity to go to classes, transfer out of a program, stop
22 studying or being barred from campus, I don't know if anything,
23 any of those things are happening, but that would seem to me to
24 risk irreparable harm to these individuals. How would you
25 analyze that?

1 MR. TOOMEY: Two ways. First, your Honor, since we
2 don't have any reason to believe that they have lost their
3 nonimmigrant student status, we don't have any reason to
4 believe that they can't complete their course of study. If
5 their studies are being interrupted by the universities,
6 that's -- the universities are not defendants. We are not
7 asking the universities to interrupt their studies. I believe
8 that our position that is that if under a prudential revocation
9 such as we have in this case, they're allowed to complete their
10 course of study until they leave and seek another visa. So to
11 the extent that there is any problem with their school or their
12 employment, that seems to be a plaintiff between the plaintiffs
13 and a non-party university or two non-party universities.

14 Again, the Department of Homeland Security did not
15 ask the University of Michigan or Wayne State to dis-enroll
16 these students or to terminate their employment. It terminated
17 their SEVIS record which is a recordkeeping function for the
18 Department of Homeland Security itself which would likely just
19 be placed in the system to make sure that they are confronted
20 with this information, the criminal history information when
21 they reapply for a visa.

22 THE COURT: Okay.

23 MR. TOOMEY: There is another problem with, so
24 similar to the problem with the fact that some of the
25 difficulties for plaintiffs are being caused by their

1 universities and not by the government is that when we get to
2 the likelihood of success on the merits, there is a Department
3 of State sized hole in their claims in this case. Plaintiffs
4 did not name the Department of State as a defendant. They do
5 not challenge the Department of State's revocation of their
6 visas, prudential or otherwise. The SEVIS record termination
7 for all four plaintiffs were done at the behest of the
8 Department of State so on the consideration of likelihood on
9 the merits, it is unlikely that this Court's going to be able
10 to enter an order dictating that a non-party change its
11 position with respect to the SEVIS records and the reason that
12 the --

13 THE COURT: I agree with that.

14 MR. TOOMEY: The reason that the plaintiffs did not
15 add the Department of State is because the Department of
16 State's decisions are discretionary and they are unreviewable
17 and so what they're doing is trying to collateral attack the
18 Department of State's decisions by basing their claim on the
19 change to a SEVIS record which of course was, the only decision
20 made about the SEVIS record was made by the Department of
21 State, a non-party.

22 THE COURT: Couple of other things and then you can
23 wrap up if you're ready. The case out of the District of New
24 Hampshire appears to be very similar if not identical. Are you
25 able to distinguish that or what did the judge there do wrong?

1 MR. TOOMEY: I know very little about the other cases
2 of a similar nature being filed around the country. I do know
3 that many of the TROs being entered are being done without full
4 briefing, without argument, without a record and I think that
5 some of them are being done in violation of what a TRO is
6 supposed to be. They're upsetting the status quo and they're
7 reacting more to media reports than the record presented to the
8 court.

9 THE COURT: Okay. Are you able to say with some
10 confidence to the Court at this time whether or not any of the
11 plaintiffs will have removal proceedings initiated or be
12 arrested or any of that type of thing in the next 30 days?

13 MR. TOOMEY: I can say that as of yesterday right
14 before the briefing deadline in this case, Department of
15 Homeland Security verified to me that they had -- that they
16 possessed no information indicating that any of the plaintiffs
17 are removable. Now that can change. If they drop out of
18 school tomorrow, they will become removable, but we don't
19 know -- we're not in control of that and we don't know whether
20 it's going to happen, but I can say that based on what's in
21 front of us known to DHS, they do not know of any grounds for
22 removability for any of the plaintiffs at this time.

23 THE COURT: Interesting. What if Michigan
24 de-enrolled or disenrolled a student, would they then be
25 removable?

1 MR. TOOMEY: That would be a problem because a
2 condition of their nonimmigrant student visa is that they
3 maintain their enrollment.

4 THE COURT: Yeah.

5 MR. TOOMEY: Now it may be out of their control and
6 so maybe there's an exception for that. I don't know all of
7 the exceptions of 214.2(f), and I'm not going to opine on it
8 and the Department of Homeland Security doesn't know anything
9 about it and so I don't think, you know, the burden is on
10 plaintiffs. Plaintiffs need to submit evidence to this Court
11 meeting the extremely high burden for a TRO showing that a
12 removal is imminently likely and will cause irreparable harm
13 and they cannot do this on this record when the Department of
14 Homeland Security at this moment has no information indicating
15 that the plaintiffs are removal believe.

16 THE COURT: So what if I entered a nice, simple order
17 and I said okay here's the schedule for your preliminary
18 injunction briefs, exhibits, we're going set a hearing with
19 testimony if necessary on X, Y and Z dates, in the meantime
20 government no arrests or removal proceedings against these four
21 people during that time. What would you say about that?

22 MR. TOOMEY: I think the portion of the opinion
23 relating to no arrests and no removal proceedings would be an
24 advisory opinion and lack jurisdiction because there is no --
25 again, plaintiffs bear the burden of presenting you, your

1 Honor, with evidence here today that they are imminently likely
2 to be arrested or placed into removal proceedings. They cannot
3 meet that burden on this record.

4 THE COURT: Seems like you knew I was going to ask
5 you that question, Mr. Toomey.

6 MR. TOOMEY: Top of my head, your Honor.

7 THE COURT: All right. Anything else you'd like to
8 say?

9 MR. TOOMEY: No, your Honor.

10 THE COURT: All right, thank you for your time and
11 hard work. We really appreciate it. Okay Mr. Wadood, you have
12 last word. You know where I'm at I think from my questions and
13 I'd be happy to hear any rebuttal argument at this time. Go
14 right ahead.

15 MR. WADOOD: Thank you, your Honor. I want to point
16 out two things. One is the bulk of defendants' argument about
17 this distinction between a SEVIS record and an F-1 status.

18 THE COURT: Yes.

19 MR. WADOOD: But this distinction, it's essentially a
20 distinction without a difference. The SEVIS database is the
21 database that tracks F-1 status of every F-1 student in the
22 United States. It's the only way that universities know who is
23 in status, who is out of status and it's kind of the exchange,
24 the communication exchange that ICE has with schools about who
25 is in status and so when someone's status is terminated,

1 obviously the database is reflected or updated to reflect that,
2 but there's no secret second status that students have where
3 they are F-1 students and they have a SEVIS record. The SEVIS
4 record is the reflection of their status and these termination
5 reasons for example that defendants point to, those reasons
6 incorporate the status regulations, how you failed -- how you
7 failed to maintain status and how the agency can terminate
8 status. Those reasons that the government is saying that you
9 can terminate a SEVIS record are the reasons for losing F-1
10 status and so and that reflects reality. I mean, the harms
11 that come from losing status are flowing from this notification
12 that their status as reflected in SEVIS has been terminated.
13 They can't work. They don't know if they can go to class.
14 They don't know if they can apply for any programs. They might
15 be removable at any point and this is not just plaintiffs'
16 argument, this is something that at least three, probably four
17 federal district courts, the District of New Hampshire, the
18 Eastern District of New York, the --

19 THE COURT: I must say you filed last night at, it
20 was late. I didn't get a really good opportunity to look
21 through those cases --

22 MR. WADOOD: I apologize --

23 THE COURT: No, no, it's not your fault. I
24 understand. I just didn't have time, but apparently eastern
25 New York and another --

1 MR. WADOOD: The District of Massachusetts and also
2 now the District of Columbia and this was after the government
3 was offered the chance to respond. In all of these cases the
4 government at least orally was able to respond and at least in
5 the case of the District of Columbia provided written briefing
6 and after that briefing making similar arguments about SEVIS
7 versus status, the courts in those cases issued TROs covering
8 the exact relief we're seeking here which is a restoration of
9 their F-1 status and a prevention from arrest, detention and
10 the initiating of removal proceedings and this is also what the
11 Third Circuit in the Jie Fang case was dealing with where
12 students again and I quoted the language for you that the
13 student's SEVIS record was terminated which means they no
14 longer had F-1 status and as a result of that SEVIS record
15 termination, that status termination, they were put into
16 removal proceedings and that's exactly what plaintiffs are
17 afraid of at this point is that any day they could be issued a
18 notice to appear, they could be arrested by ICE and put into
19 removal proceedings all while they're trying figure out what's
20 going on with their status and so the fear is very real for
21 plaintiffs because of the few examples we have of this
22 happening in the past, those examples have led to removal
23 proceedings for folks who have otherwise maintained their F-1
24 status.

25 THE COURT: Okay. Last thing. I don't know if this

1 makes a difference at this stage of the inquiry for what I need
2 to look at, but I do wonder are your clients able to fight this
3 battle on the agency level? In other words are they able to
4 take issue with the information they've received from their
5 universities with the agencies? Do they need to seek, umm,
6 what do they call it, re, umm --

7 MR. WADOOD: Reinstatement.

8 THE COURT: -- reinstatement or any of that sort of
9 thing?

10 MR. WADOOD: No, there's no direct way to review,
11 challenge, appeal the termination of their F-1 status in this
12 case. They can go to a different subagency, U.S.C.I.S., ask
13 for reinstatement which is a months-long process typically, but
14 as far as ICE's decision to terminate, DHS's decision to
15 terminate the F-1 status, that is not -- there's no
16 administrative process for appealing that directly and removal
17 proceedings haven't yet been initiated, they could be at any
18 time, they haven't yet been initiated and so there's no way to
19 challenge the termination in immigration court. There's a
20 question as to whether that's even possible in immigration
21 court, but students are currently left with no recourse as far
22 as appealing to a superior agency of the termination of their
23 status which is why this is a final agency action which is why
24 the Third Circuit felt that it was a final agency action under
25 the APA and that also speaks to nature of the TRO. The reason

1 for a TRO and I know defendants keep pointing to status quo,
2 there's always a disagreement as to whether and when the status
3 quo began, was it when the lawsuit was filed, was it before the
4 government took their action? Luckily the Sixth Circuit has
5 already settled this dispute in United Foods v. Southwest Ohio
6 Regional Transit Authority and they say that status quo while
7 it's a helpful terminology, what really matters is the
8 traditional factors for issuing a TRO or a preliminary
9 injunction which is a balance of the equities and what's
10 happening here, especially because they cannot directly appeal
11 this termination, is irreparable injury in the form of the
12 impacts on their work, their class, their ability to go to new
13 programs, their potential of removal proceedings and that's
14 what we're asking for here is a temporary restraining order
15 allowing them to go back to work, back to class, preventing
16 removal proceedings, cutting this irreparable injury short so
17 that plaintiffs and this Court have the luxury and the freedom
18 to fully consider these important issues.

19 THE COURT: Understood. All right, very good. Thank
20 you very much again, Mr. Wadood. I must say that the arguments
21 of counsel were extremely helpful to the Court, skillfully and
22 very persuasively presented which we are always lucky to have
23 and thankful for.

24 I'm going to have to take the motion under
25 advisement. I realize the emergency nature of things and the

1 clock is ticking and I'll get something out quickly, but in the
2 meantime we will recess momentarily with this matter under
3 advisement and thank you all once again for your hard work.

4 Okay.

5 THE CLERK OF THE COURT: All rise. The Court is now
6 in recess.

7 (Hearing concluded at 10:59 a.m.)

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7 I, David B. Yarbrough, Official Court
8 Reporter, do hereby certify that the foregoing pages
9 comprise a true and accurate transcript of the
10 proceedings taken by me in this matter on Tuesday, April
11 15th, 2025.

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4/15/2025

/s/ David B. Yarbrough

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Date

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